allowed by Clause 2 to employ the "Reunion" in lawful trades for the carriage of lawful merchandise only but were absolutely prohibited from shipping any injurious, inflammable or dangerous goods. Notwithstanding the prohibition the plaintiffs deliberately failed to inform the defendant or her agent or attorney that the vessel could not carry the defendant's cargo, bitumen being dangerous goods. The defendant submits that this prohibited the plaintiffs from entering into the Charterparty with the defendant.

As I have stated the evidence is that there was very close relationship between the plaintiffs and the owners and the owners had no objection and had agreed to the carriage of bitumen. The vessel's insurance did not prohibit the carrying of the bitumen cargo. In any case, the defendant is not a party to the Charterparty P 21 and cannot complain if the plaintiffs carry cargoes against the principal Charterparty. This submission of the defendant is untenable.

For these reasons the plaintiffs must succeed in their claim for damages.

The defendant submits that the plaintiffs have not suffered from the repudiation and are entitled only to nominal damages. There is no substance in this submission.

There will be judgment for the plaintiffs in the sum of $188,670.60 with interest from January 25, 1980, till payment at the rate of 12% per annum and costs.

*Claim allowed.*

Solicitors: *Netto Low & Partners; G. Murugaiyan.*

---

## CHIAM HENG HSIEN v. JURONG TOWN CORPORATION

**[O.C.J. (Chua J.) August 23, 1983]**
**[Singapore – Civil Suit No. 3137 of 1978]**

*Administrative Law – Breach of natural justice – Wrongful dismissal – Damages awarded*

*Employment – Wrongful dismissal – Damages awarded.*

The plaintiff in this case claimed for a declaration that his dismissal as an employee of the defendant was null and void and for "a declaration that he has continued to be and is in the employment of the defendant in the position that he held before June 23, 1976, and is entitled to be remunerated as such"; alternatively he claimed damages for wrongful dismissal.

The plaintiff was employed by the defendant on June 1, 1971 on 3 years' probation in the post of Executive Officer. On June 1, 1972 he was confirmed in the said post. One June 23, 1976 the defendant wrote to the plaintiff alleging that the plaintiff was an active partner of Mitre Hotel and also a partner of Pavilion Restaurant and had accordingly taken up part-time employment in violation of the Jurong Town Corporation's Terms & Conditions of Service, punishable under Rule 118. The plaintiff replied on June 24, 1976 explaining that he had merely succeeded to his late father's share and that he was not an active partner as alleged and denying that he was in breach of Rule 111. On September 7, 1976, the defendant informed the plaintiff that there would be a formal hearing by the Disciplinary Inquiry Committee on September 15, 1976. The Secretary of the Disciplinary Committee inquired whether the plaintiff would attend before the Committee. The plaintiff said that he had nothing further to add to what he had said in his letter. He did not attend before the Committee. On November 5, 1976 the defendant wrote to the plaintiff that he had been found guilty as charged and that his services with the defendant were terminated as from June 23, 1976. The plaintiff wrote to the Secretary on November 10, 1976 protesting against the decision to dismiss him.

**Held**: (1) it would be impossible to hold, having reference to the Employment Act and the Terms & Conditions of Service, that in this case there was security of tenure. It would need the clearest language to convince the court that a contract of personal service is intended to be a contract for life, or a contract to endure till a servant had reached the retiring age;

(2) the plaintiff's employment must be treated as having in fact come to an end on November 5, 1976, and the plaintiff's remedy lay in a claim for damages. He would therefore be awarded 3 months' salary.

*Cases referred to:*

(1) *Francis* v. *Municipal Councillors of Kuala Lumpur* [1962] 3 All E.R. 633.
(2) *Gunton* v. *London Borough of Richmond* [1980] 3 All E.R. 577.

CIVIL SUIT.

*J. B. Jeyaretnam* for the plaintiff.
*Harry Elias* for the defendant.

*Cur. Adv. Vult.*

**Chua J.**: The plaintiff's claim is for a declaration that his dismissal as an employee of the Jurong Town Corporation is null and void and for "a declaration that he has continued to be and is in the employment of the defendant in the position that he held before June 23, 1976 and is

entitled to be remunerated as such"; alternatively he claims damages for wrongful dismissal.

The facts are these. The plaintiff, who is a graduate of the University of Singapore, commenced employment with the defendant on June 1, 1971, on three years' probation in the post of Executive Officer. Because of his military service, he was confirmed in the post of Executive Officer with effect from June 1, 1972. On June 23, 1976, the defendant wrote to the plaintiff alleging that the plaintiff was an active partner of Mitre Hotel and also a partner of Pavilion Restaurant and had accordingly taken up part-time employment in violation of Rule 111 of the Jurong Town Corporation's Terms & Conditions of Service, punishable under Rule 118. The plaintiff replied on June 24, 1976, explaining that he had merely succeeded to his late father's share in the Mitre Hotel and Pavilion Restaurant businesses and that he was not an active partner as alleged and denying that he was in breach of Rule 111. On September 7, 1976, the defendant informed the plaintiff that there would be a formal hearing by the Disciplinary Inquiry Committee on September 15, 1976. The Secretary of the Disciplinary Committee inquired whether the plaintiff would attend before the Committee. The plaintiff said that he had nothing further to add to what he had said in his letter. The plaintiff did not attend before the Committee. On November 5, 1976, the defendant by letter informed the plaintiff that he had been found guilty as charged and that his services with the defendant were terminated as from June 23, 1976. The plaintiff wrote to the Secretary on November 10, 1976, protesting against the decision to dismiss him.

The plaintiff alleges (1) that there was no evidence capable in law to warrant any finding that the plaintiff was guilty of any breach of Rule 111, (2) that the proceedings against the plaintiff were conducted in breach of, alternatively, contrary to the rules of natural justice or the duty to act fairly; (3) that the plaintiff was denied his right of appeal against the decision to dismiss him. The plaintiff submits that for these reasons the decision to dismiss him is null and void and he is entitled to the declarations prayed for.

In the Defence filed on December 2, 1978, the defendant denied that the plaintiff's dismissal was wrong in law. The defendant, however, amended its Defence at the commencement of the trial when the plaintiff amended his Statement of Claim. In its Amended Defence the defendant admits that the plaintiff's dismissal was wrongful but denies that the plaintiff is entitled to reinstatement or to any of the declarations prayed for.

Counsel for the plaintiff submits that the irresistible conclusion when one studies the Terms & Conditions of Service of the Jurong Town Corporation (Ex. C) is that the plaintiff's service with the defendant is permanent until the retiring age of fifty-five is reached. The only way in which the plaintiff can be dismissed for a breach of Rule 111 is after the procedure laid down in Rule 119 has been complied with.

Counsel for the plaintiff says that the disciplinary proceedings were conducted contrary to the rules of natural justice and that the plaintiff was denied the right of appeal and that the effect is that the order of dismissal which followed these disciplinary proceedings is null and void and that in the eyes of the law the plaintiff still remains in the service of the defendant. Counsel says that the Plaintiff is entitled as of right to the declarations which he now seeks.

The first question for consideration is whether the defendant had conferred a security of tenure until the retiring age of fifty-five upon the plaintiff following a period of probation subject only to a right in the defendant to dismiss the plaintiff if the plaintiff is guilty of a breach of any of the Rules 97 – 117 (Rule 118).

It is not disputed that the plaintiff after the period of probation was confirmed in the post of Executive Officer and placed on the permanent establishment. The mere statement in Rule 30 that an officer is placed on the permanent establishment is very imprecise. It contains no indication of the degree of permanence. It is to be noted that in the letter of defendant's secretary, dated May 28, 1971, (Page 1 of Bundle A) informing the plaintiff that the Corporation had agreed to offer the plaintiff the post of Executive Officer on three years' probation, the plaintiff was informed that the appointment would be subject to certain conditions, and one of them was that "his appointment is subject to the provisions of the Employment Act, 1968, and to all the Corporation's Regulations and Rules from time to time in force." The plaintiff accepted the conditions.

Section 10 (1) of the Employment Act provides that "Either party to a contract of service may at any time give the other party notice of his

intention to terminate such contract of service."

Section 11 of the same Act provides that either party to a contract of service may terminate such contract of service without notice in the event of any wilful breach by the other party of a condition of the contract of service.

Rule 66 of the Terms & Conditions of Service provides that

"Subject to any provision to the contrary in any agreement in writing with any particular employee, the Corporation in terminating the service of any employee without giving the requisite notice shall pay to the employee a sum equal to the total of the salary or wages and allowances in the nature of or related to salary or wages which would normally have been paid to the employee had he continued in the services for the period of such notice commencing on the date of his discharge.

It is, in my view, impossible to hold, having reference to the Employment Act and the Terms & Conditions of Service, that in this case there is security of tenure. It would need the clearest language to convince me that a contract of personal service is intended to be a contract for life, or a contract to endure till a servant has reached the retiring age. The position in the present case, if the plaintiff's argument is to be acceded to, would be the more remarkable in that it would be only the Corporation that was bound, for the plaintiff is entitled to terminate his employment at any time on one month's notice (See Rule 65).

In *Francis* v. *Municipal Councillors of Kuala Lumpur*,[1] Lord Morris of Borth-Y-Gest, who delivered the judgment of the Board, said (p. 637):

"In their Lordships' view, where there has been a purported termination of a contract of service a declaration to the effect that the contract of service still subsists will rarely be made. This is a consequence of the general principle of law that the Courts will not grant specific performance of contracts of service. Special circumstances will be required before such a declaration is made and its making will normally be in the discretion of the Court."

In my view there are no circumstances in the present case which make it either just or proper to make the declarations which the plaintiff seeks.

The plaintiff contends that he has not accepted the termination of the contract. The authorities are clear that he has no option but to accept his employer's repudiation of the contract. (See *Gunton* v. *London Borough of Richmond*,[2] judgments of Shaw L.J. at p. 582, and Buckley L.J. at p. 589). The plaintiff's employment must be treated as having in fact come to an end on November 5, 1976, and the plaintiff's remedy lay in a claim for damages. In this case the plaintiff has accepted the repudiation. He did so at the trial.

The plaintiff is entitled to his salary from June 1, 1976 to November 5, 1976.

The remaining question is, what is the amount of damages to which the plaintiff is entitled? The defendant contends that the plaintiff is entitled by way of damages to one month's salary that being the length of notice to which he was entitled under the Employment Act and that it was his duty to mitigate damages. The plaintiff has made no effort to obtain employment since his dismissal In my view, having regard to the circumstances of this case, the proper sum to award is three months' salary.

There will be judgment for the plaintiff accordingly and costs.

*Claim allowed.*

Solicitors: *J.B. Jeyaretnam & Co.; Drew & Napier.*